

On October 2, 1942, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

### DRUGS ACTIONABLE BECAUSE OF FAILURE TO BEAR ADEQUATE DIRECTIONS OR WARNING STATEMENTS

**854. Misbranding of Indian Antiseptic Hair and Scalp Stimulator. Adulteration and misbranding of Eez-all Germicide for the Skin. U. S. v. Adolph F. Frick. Plea of nolo contendere. Fine, \$300. (F. D. C. No. 6441. Sample Nos. 22596-E, 22597-E.)**

On April 1, 1942, the United States attorney for the Northern District of California filed an information against Adolph F. Frick, San Francisco, Calif., alleging shipment on or about April 3, 1941, of a quantity of the above-named products from the State of California into the State of Nevada.

Analysis of a sample of Indian Antiseptic Hair and Scalp Stimulator showed that it consisted essentially of small proportions of a phenolic compound and free ammonia, alcohol, and water.

The article was alleged to be misbranded in that the statements, "Indian \* \* \* Hair and Scalp Stimulator for dandruff—itching scalp—falling hair—eczema, etc. \* \* \* For itching scalp, dandruff, falling hair, eczematous condition," and the designs of an Indian head, arrows, and Indian scenes appearing on the label, were false and misleading since they represented and suggested that the article consisted solely of substances used by the Indians, and that it would be efficacious as a hair and scalp stimulator, in the treatment of dandruff, itching scalp, falling hair, eczema, and other eczematous conditions, whereas it contained ingredients unknown to the Indians and would not be efficacious for the conditions represented.

It was alleged to be misbranded further in that it was in package form and the label did not bear an accurate statement of the quantity of contents. It was also misbranded in that it was fabricated from two or more ingredients and its label did not bear the common or usual name of each active ingredient.

Analysis of a sample of Eez-all Germicide for the Skin showed that it consisted essentially of small proportions of a phenolic compound and free ammonia, alcohol, and water. Bacteriological examination showed that the article was neither an antiseptic nor a germicide. The article was alleged to be adulterated in that its strength differed from that which it purported and was represented to possess, and in that it purported and was represented to be a germicide, whereas it was not a germicide. It was alleged to be misbranded (1) in that the statement, "Eez-all Germicide for the Skin For Cuts, Bruises, Burns, Itching, Poison Oak, Athlete's Foot, Throat, and Gums," was false and misleading as it represented that the article would bring about ease and relief from pain and discomfort, implied in the expression "Eez-all," and that it was a germicide and effective for the conditions mentioned, whereas the drug was not a germicide and was not effective for the conditions indicated; (2) in that it was fabricated from two or more ingredients and its label did not bear the common name or usual name of each active ingredient; and (3) in that its label did not bear adequate directions for use.

On October 17, 1942, after entry of a plea of nolo contendere, the defendant was fined \$100 on each of the 3 counts contained in the information.

**855. Misbranding of Ru-Ma-Dol, McDades Prescription, Moe-Pep, and Allan's Red Wash. Adulteration and misbranding of Allan's Gland Capsules. U. S. v. Allan & Co., Inc., and John G. Ayars. Plea of nolo contendere. Fine, \$150. (F. D. C. No. 7298. Sample Nos. 67928-E, 67932-E, 71214-E, 71216-E, 71217-E.)**

On October 2, 1942, the United States attorney for the Eastern District of Missouri filed an information against Allan & Co., Inc., St. Louis, Mo., and John G. Ayars, alleging shipment on or about September 18, 20, and 27, and October 1, 1941, from the State of Missouri into the States of Arkansas and Tennessee of quantities of the above named products.

Analysis of a sample of Ru-Ma-Dol showed that it consisted essentially of sodium salicylate and extracts of plant drugs, including an alkaloid-bearing drug, alcohol, glycerine, and water. The article was alleged to be misbranded in that statements in the labeling regarding the efficacy of the drug in the cure, mitigation, treatment, or prevention of rheumatism, neuralgia, neuritis, pain, and swelling, and in the relief of symptoms of rheumatism, neuralgia, and neuritis, were false and misleading, since the product was not efficacious for these purposes.

Examination of a sample of McDades Prescription showed that it consisted essentially of extracts of plant drugs, including a laxative drug and a bitter drug, glycerine, alcohol, and water. The article was alleged to be misbranded in that the statement on the labeling, "Vegetable Alterative An aid in the relief of pain and discomfort arising from certain Rheumatism and Catarrhal affections," was false and misleading, as it was not efficacious for the purpose represented and suggested. It was further misbranded in that its label failed to bear adequate directions for use, since the directions did not limit the duration of administration of the drug.

Analysis of a sample of Moe-Pep showed that it consisted essentially of extracts of plant drugs, including nux vomica and a laxative drug, a small proportion of an arsenic compound, sugars, alcohol, and water. The article was alleged to be misbranded in that the name, "Moe-Pep," was misleading, as it represented and suggested that the drug would give the user more pep, whereas it would not give the user more pep. The article was also misbranded in that the statement, "Sexual Power Stimulant For men or women suffering from low sexual power not due to any disease, nor to natural frigidity, but to overwork, worry or advancing years; up to a reasonable age. \* \* \* until desired results are obtained \* \* \* Should you experience too much stimulation, \* \* \*," were false and misleading, since the drug would not be effective for these purposes. It was further misbranded in that the label failed to warn that not more than the recommended dosage should be taken since the drug contained strychnine and arsenic compound, that frequent, continued, or prolonged use of the drug might result in serious injury, and that use of the drug by elderly persons might be especially dangerous.

Examination of a sample of Gland Capsules showed that it consisted essentially of an extract of nux vomica, extracts of organic material, and small proportions of an arsenic compound, an iodine compound, and zinc phosphide. The article was alleged to be adulterated in that its strength differed from and its quality fell below that which it purported and was represented to possess, as it was represented to contain zinc sulfide, whereas, it did not contain zinc sulfide. It was alleged to be misbranded in that the following and similar statements appearing on the labeling, "Gland Capsules Each Capsule contains: \* \* \* Zinc Sulphide . \* \* \* Sexual Power Stimulant For men or women suffering from low sexual power not due to any disease nor to natural frigidity, but to overwork, worry or advancing years. \* \* \* until desired results are obtained. \* \* \* Should you experience too much stimulation \* \* \* If results are not satisfactory your Physician should be consulted," were false and misleading, as the product did not contain zinc sulfide and was not efficacious for the purposes recommended. The article was further misbranded in that its labeling did not bear adequate warning against its use, where such use might be dangerous to health, or against unsafe dosage or methods of duration of administration. The article contained nux vomica and arsenic, and its label failed to warn that not more than the recommended dosage should be taken, that frequent continued or prolonged use might result in serious injury, and that its use by elderly persons might be especially dangerous.

A sample of Allan's Red Wash Combination was found to be composed of a bottle of "Red Wash" and a bottle of "Sa-Ura Emulsion." Analysis of a sample of the "Red Wash" showed that it consisted essentially of small proportions of cresol, boric acid, compounds of aluminum, ammonium and zinc sulfates, glycerine, and water. The "Sa-Ura Emulsion" consisted essentially of castor oil and volatile oils, including sandalwood, turpentine, and balsam of copaiba. The circular accompanying the drug carried the following statements: "While this treatment is rational and well known and will probably give you satisfaction, it should be regarded as an emergency treatment. Then as soon as possible you should see your Doctor and have a thorough Biological examination made. What are commonly termed social diseases are not to be regarded lightly. If infected, in fairness to your family and your fellow citizens, submit to early biological examination that general infection may be checked and controlled." The article was alleged to be misbranded in that the quoted statements were false and misleading, as they represented that the drug would be efficacious in the cure, mitigation, treatment, or prevention of social diseases, whereas it was not efficacious for this purpose.

On December 3, 1942, a plea of nolo contendere having been entered, a fine of \$15 on each of the 6 counts in the information was imposed upon the corporation, and a fine of \$10 on each of the 6 counts was imposed upon the individual defendant.